

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

09	DEMAR RHOME,	)	Case No. C06-1207-JLR-JPD
		)	
10	Petitioner,	)	
		)	
11	v.	)	ORDER DENYING PETITIONER'S
		)	MOTION FOR APPOINTMENT
12	WASHINGTON STATE PENITENTIARY,	)	OF COUNSEL
		)	
13	Respondent.	)	
		)	

The present matter comes before the Court on petitioner's motion for appointment of counsel. Dkt. No. 20. The Court, after careful consideration of the petitioner's motion, supporting materials, all governing authorities and the balance of the record, does hereby find and ORDER:

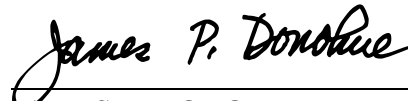
(1) Petitioner's motion for appointment of counsel (Dkt. No. 20) is DENIED. There is no right to have counsel appointed in cases brought under 28 U.S.C. § 2254 unless an evidentiary hearing is required. *Terravona v. Kincheloe*, 852 F.2d 424, 429 (9th Cir. 1988); *Brown v. Vasquez*, 952 F.2d 1164, 1168 (9th Cir. 1992); *see also* Rules Governing § 2254 Cases in U.S. District Courts 8(c). An evidentiary hearing is required only if (1) the petitioner's allegations, if proved, would establish the right to relief; and (2) the state court trier of fact has not, after a full and fair hearing, reliably found the relevant facts. *Van Pilon v. Reed*, 799 F.2d 1332, 1338 (9th Cir.1986). The Court may exercise its discretion to appoint

01 counsel for a financially eligible individual where the “interests of justice so require.” 18  
02 U.S.C. § 3006(A).

03 Here, petitioner has provided no factual or legal basis that indicates an evidentiary  
04 hearing is required. Petitioner’s current motion also fails to demonstrate that the interests of  
05 justice are best served by appointment of counsel in this matter at the present time. Moreover,  
06 by separate order, this Court has recommended that petitioner’s § 2254 petition be dismissed  
07 without prejudice for failure to exhaust state court remedies. *See* Dkt. No. 26. Because  
08 appointment of counsel is not appropriate at the present time, petitioner’s motion is DENIED.

09 (2) The Clerk shall direct copies of this Order to petitioner, to counsel for  
10 respondent, and to the Honorable James L. Robart.

11 DATED this 24th day of October, 2006.  
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15 JAMES P. DONOHUE  
16 United States Magistrate Judge  
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